

AMENDED IN SENATE APRIL 8, 2003

SENATE BILL

No. 114

Introduced by Senator Torlakson

February 3, 2003

An act to amend Section 53084 of the Government Code, and to amend Section 33426.7 of the Health and Safety Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 114, as amended, Torlakson. Financial assistance: relocation of ~~automobile dealerships~~ *vehicle dealers* and big box retailers.

Existing law, until January 1, 2005, permits a redevelopment agency or a local agency, as defined, from providing any form of financial assistance to an automobile dealership or big box retailer, or a business entity that sells or leases land to an automobile dealership or big box retailer, that is relocating from the territorial jurisdiction of one community or local agency, to the territorial jurisdiction of another community or local agency, but within the same market area only if the receiving community or local agency offers the other community or local agency a contract that apportions sales tax generated by the dealership or retailer between the 2 communities or local agency, as specified, and the agency holds a public hearing and adopts a resolution making specified findings relating to whether or not a contract has been approved.

Existing law also requires the California Research Bureau to report to the Governor and the Legislature on or before January 1, 2004, regarding the implementation of these provisions.

This bill would extend indefinitely these prohibitions, but would *change the term "automobile dealership" to "vehicle dealer" and*

eliminate the authority of a redevelopment agency or local agency to provide any form of financial assistance to ~~an automobile dealership~~ *a vehicle dealer* or big box retailer that is relocating from the territorial jurisdiction of one community to the territorial jurisdiction of another community but within the same market area.

This bill would also delete the requirement that the California Research Bureau report to the Governor and the Legislature on or before January 1, 2004, regarding the implementation of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53084 of the Government Code is
2 amended to read:

3 53084. (a) Notwithstanding any other provision of this part,
4 a local agency ~~may~~ *shall* not provide any form of financial
5 assistance to ~~an automobile dealership~~ *a vehicle dealer* or big box
6 retailer, or a business entity that sells or leases land to ~~an~~
7 ~~automobile dealership~~ *a vehicle dealer* or big box retailer, that is
8 relocating from the territorial jurisdiction of one local agency to
9 the territorial jurisdiction of another local agency but within the
10 same market area.

11 (b) As used in this section, ~~the following terms have the~~
12 ~~following meaning:~~ *section:*

13 (1) “Big box retailer” means a store of greater than 75,000
14 square feet of gross buildable area that will generate sales or use
15 tax pursuant to *the Bradley-Burns Uniform Local Sales and Use*
16 *Tax Law*, Part 1.5 (commencing with Section 7200) of Division 2
17 of the Revenue and Taxation Code.

18 (2) “Local agency” means a chartered or general law city, a
19 chartered or general law county, or a city and county. “Local
20 agency” does not include a redevelopment agency that is subject
21 to Section 33426.7 of the Health and Safety Code.

22 (3) “Financial assistance” includes, but is not limited to, any
23 of the following:

24 (A) Any appropriation of public funds, including loans, grants,
25 or subsidies or the payment for or construction of parking
26 improvements.

(B) Any tax incentive, including tax exemptions, rebates, reductions, or moratoria of a tax, including any rebate or payment based upon the amount of sales tax generated from the ~~automobile dealership~~ *vehicle dealer* or big box retailer.

(C) The sale or lease of real property at a cost that is less than fair market value.

(D) Payment for, forgiveness of, or reduction of fees.

(4) (A) “Market area” means a geographical area that is described in independent and recognized commercial trade literature, recognized and established business or manufacturing policies or practices, or publications of recognized independent research organizations as being an area that is large enough to support the location of the specific ~~automobile dealership~~ *vehicle dealer* or the specific big box retailer that is relocating.

(B) With respect to ~~an automobile dealership~~ *a vehicle dealer*, a “market area” shall not extend further than 40 miles, as measured by the most reasonable route on roads between two points, starting from the location from which the ~~automobile dealership~~ *vehicle dealer* is relocating and ending at the location to which the ~~automobile dealership~~ *vehicle dealer* is relocating.

(C) With respect to a big box retailer, a “market area” shall not extend further than 25 miles, as measured by the most reasonable route on roads between two points, starting from the location from which the big box retailer is relocating and ending at the location to which the big box retailer is relocating.

(5) “Relocating” means the closing of ~~an automobile dealership~~ *a vehicle dealer* or big box retailer in one location and the opening of ~~an automobile dealership~~ *a vehicle dealer* or big box retailer in another location within a 365-day period when a person or business entity has an ownership interest in both the ~~automobile dealership~~ *vehicle dealer* or big box retailer that has closed or will close and the one that is opening. “Relocating” does not mean and shall not include the closing of ~~an automobile dealership~~ *a vehicle dealer* or big box retailer because the ~~automobile dealership~~ *vehicle dealer* or big box retailer has been or will be acquired or has been or will be closed as a result of the use of eminent domain.

(6) “Vehicle dealer” means a retailer that is also a dealer as defined by Section 285 of the Vehicle Code.

(c) This section does not apply to local agency assistance in the construction of public improvements that serve all or a portion of the jurisdiction of the local agency and that are not required to be constructed as a condition of approval of the ~~automobile dealership~~ *vehicle dealer* or big box retailer. This section also does not prohibit assistance in the construction of public improvements that are being constructed for a development other than the ~~automobile dealership~~ *vehicle dealer* or big box retailer.

(d) This section shall not apply to any financial assistance provided by a local agency pursuant to a lease, contract, agreement, or other enforceable written instrument entered into between the local agency and ~~an automobile dealership~~ *a vehicle dealer*, big box retailer, or a business entity that sells or leases land to ~~an automobile dealership~~ *a vehicle dealer* or big box retailer, if the lease, contract, agreement, or other enforceable written instrument was entered into prior to December 31, 1999.

SEC. 2. Section 33426.7 of the Health and Safety Code is amended to read:

33426.7. (a) Notwithstanding any other provision of this part, a redevelopment agency ~~may~~ *shall* not provide any form of financial assistance to ~~an automobile dealership~~ *a vehicle dealer* or big box retailer, or a business entity that sells or leases land to ~~an automobile dealership~~ *a vehicle dealer* or big box retailer, that is relocating from the territorial jurisdiction of one community to the territorial jurisdiction of another community but within the same market area.

(b) As used in this section, ~~the following terms have the following meaning:~~ *section:*

(1) “Big box retailer” means a store of greater than 75,000 square feet of gross buildable area that will generate sales or use tax pursuant to *the Bradley-Burns Uniform Local Sales and Use Tax Law*, Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code.

(2) “Community” and “territorial jurisdiction” have the meanings specified in Sections 33002 and 33120, respectively.

(3) “Financial assistance” includes, but is not limited to, any of the following:

(A) Any appropriation of public funds, including loans, grants, or subsidies or the payment for or construction of parking improvements.

(B) Any tax incentive, including tax exemptions, rebates, reductions, or moratoria of a tax, including any rebate or payment based upon the amount of sales tax generated from the ~~automobile dealership~~ *vehicle dealer* or big box retailer.

(C) The sale or lease of real property at a cost that is less than fair market value.

(D) Payment for, forgiveness of, or reduction of fees.

(4) (A) “Market area” means a geographical area that is described in independent and recognized commercial trade literature, recognized and established business or manufacturing policies or practices, or publications of recognized independent research organizations as being an area that is large enough to support the location of the specific ~~automobile dealership~~ *vehicle dealer* or the specific big box retailer that is relocating.

(B) With respect to ~~an automobile dealership~~ *a vehicle dealer*, a “market area” shall not extend further than 40 miles, as measured by the most reasonable route on roads between two points, starting from the location from which the ~~automobile dealership~~ *vehicle dealer* is relocating and ending at the location to which the ~~automobile dealership~~ *vehicle dealer* is relocating.

(C) With respect to a big box retailer, a “market area” shall not extend further than 25 miles, as measured by the most reasonable route on roads between two points, starting from the location from which the big box retailer is relocating and ending at the location to which the big box retailer is relocating.

(5) “Relocating” means the closing of ~~an automobile dealership~~ *a vehicle dealer* or big box retailer in one location and the opening of ~~an automobile dealership~~ *a vehicle dealer* or big box retailer in another location within a 365-day period when a person or business entity has an ownership interest in both the ~~automobile dealership~~ *vehicle dealer* or big box retailer that has closed or will close and the one that is opening. “Relocating” does not mean and shall not include the closing of ~~an automobile dealership~~ *a vehicle dealer* or big box retailer because the ~~automobile dealership~~ *vehicle dealer* or big box retailer has been or will be acquired or has been or will be closed as a result of the use of eminent domain.

(6) “Vehicle dealer” means a retailer that is also a dealer as defined by Section 285 of the Vehicle Code.

(c) This section does not apply to agency assistance in the construction of public improvements that serve all or a portion of a project area and that are not required to be constructed as a condition of approval of the ~~automobile dealership~~ vehicle dealer or big box retailer. This section also does not prohibit assistance in the construction of public improvements that are being constructed for a development other than the ~~automobile dealership~~ vehicle dealer or big box retailer.

(d) This section shall not apply to any financial assistance provided by a redevelopment agency pursuant to a lease, contract, agreement, or other enforceable written instrument entered into between the redevelopment agency and ~~an automobile dealership~~ a vehicle dealer, big box retailer, or a business entity that sells or leases land to ~~an automobile dealership~~ a vehicle dealer or big box retailer, if the lease, contract, agreement, or other enforceable written instrument was entered into prior to December 31, 1999.

SEC. 3. The Legislature finds and declares that in enacting this act to add paragraph (6) to subdivision (b) of Section 53084 of the Government Code, and to add paragraph (6) to subdivision (b) of Section 33426.7 of the Health and Safety Code, it is the intent of the Legislature to clarify the intended use of the term “automobile dealership” as contained in Chapter 462 of the Statutes of 1999, and that the addition of those provisions does not constitute a change in, but is declaratory of, existing law.

SEC. 4. Nothing in this act shall impair or in any way affect a contract containing the terms specified in either subdivision (c) of Section 53084 of the Government Code or subdivision (c) of Section 33426.7 of the Health and Safety Code as those provisions read before the effective date of this act.